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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/814,601	03/23/2001	James T. Lynn	GE04347	3710

7590

08/15/2006

MOTOROLA INC
101 TOURNAMENT DRIVE
HORSHAM, PA 19044

EXAMINER

DAVIS, ZACHARY A

ART UNIT	PAPER NUMBER
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2137

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/814,601

Applicant(s)

LYNN ET AL.

Examiner

Zachary A. Davis

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


EMMANUELLE L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

First, the Examiner notes that, on page 3 of the present response, Applicant apparently disagrees with the Examiner's characterization, in the Office action of 26 May 2006, of the statement in Applicant's response received 21 March 2006 that "the cabinet files of Slivka... are presumed to be alleged to correspond to Applicant's claimed configuration file". Applicant appears to assert that the Examiner's characterization of the statement was "an apparent misconception" because the Examiner did not include the phrase "presumed to be alleged to correspond" and merely stated that they correspond. Applicant further states that "Applicant was attempting to identify the examiner's interpretation" (also at page 3 of the present response). However, the Examiner believes that the cabinet files in Slivka were CLEARLY MAPPED to the claimed configuration file in EVERY OFFICE ACTION in the present application (see page 2 of the Office action mailed 09 September 2004, page 3 of the Office action mailed 19 April 2005, page 2 of the Advisory action mailed 05 August 2005, page 4 of the Office action mailed 21 December 2005, and page 5 of the Office action mailed 26 May 2006). Therefore there was no need for Applicant's "presumption" of the allegation of correspondence or "attempt" at identifying the Examiner's interpretation, as it was clearly set forth.

Further, Applicant argues that Slivka does not disclose the claimed configuration file. However, the Examiner respectfully disagrees. The Examiner believes that Slivka does indeed disclose a configuration file, corresponding to a network appliance (see Slivka, column 16, line 55-column 17, line 1, noting the cabinet in the distribution file is created in response to a user request, column 13, lines 37-60, and further noting that the user makes the request using a network browser on a user computer or client computer, see column 11, lines 43-55, and column 12, lines 33-34, where the user or client computer clearly corresponds to the claimed network appliance, see also column 18, lines 61-67, where the user is represented by the user or client computer) and a load table defining a plurality of authorized components for the network appliance (see column 8, lines 34-42, describing a summary of software available to the user computer, corresponding to the network appliance; see also column 16, line 55-column 18, line 15 as previously cited by Applicant, showing the use of digital signatures to determine if access to the downloaded program is authorized, also noting column 18, lines 35-48, where software is installed only if the digital signature is verified)

Applicant also states that "once equating a user to a network, the examiner goes onto bootstrap to this fiction". The Examiner fails to appreciate this argument, since there was nothing in the previous Office actions that would even suggest that a user was a network. The Examiner further fails to appreciate the use of the term "bootstrap" in this argument.

The Examiner thanks Applicant for clarification of the typographical error on pages 3-4 of the response received 21 March 2006. Although the Examiner respectfully disagrees that it was a "CLEAR typographical error" as Applicant alleges on page 5 of the present response (emphasis added), the Examiner nevertheless respectfully withdraws the statement that Applicant "appear[ed] to concede" the point.

The Examiner notes Applicant's footnote on page 5 of the present response; however, the Examiner fails to appreciate the argument therein, as the Examiner at no time stated a belief that Slivka is not enabled as disclosed. On the contrary, the Examiner believes that Slivka discloses the claimed limitations as detailed above.

Therefore the Examiner maintains the rejections set forth in the Final Office action mailed 26 May 2006, for the reasons detailed above.